

Thomas W. Stilley, OSB No. 88316
 Howard M. Levine, OSB No. 80073
 Susan S. Ford, OSB No. 84220
 SUSSMAN SHANK LLP
 1000 SW Broadway, Suite 1400
 Portland, OR 97205-3089
 Telephone: (503) 227-1111
 Facsimile: (503) 248-0130
 E-Mail: tom@sussmanshank.com
howard@sussmanshank.com
susan@sussmanshank.com

Attorneys for Debtor and Debtor-In-Possession

IN THE UNITED STATES BANKRUPTCY COURT
 DISTRICT OF OREGON

In re:	}	Case No. 09-30938-elp11
Society Of Jesus, Oregon Province, an Oregon domestic nonprofit religious corporation,	}	DEBTOR'S MOTION FOR AN ORDER
Debtor.	}	(1) SETTING A CLAIMS BAR DATE FOR FILING PROOFS OF CLAIM, AND
	}	(2) APPROVING PROOF OF CLAIM FORMS, BAR DATE NOTICES, ACTUAL
	}	NOTICE PROCEDURE, AND MEDIA NOTICE PROGRAM

Society of Jesus, Oregon Province ("Debtor"), moves pursuant to FRBP 3003 (c)(3), for an order (1) fixing a bar date for filing proofs of claim for all claims against the estate, including, without limitation, claims arising in tort for child abuse and sexual misconduct, and (2) approving a non-tort proof of claim form, a tort proof of claim form, bar date notices, actual notice procedures, and media notice program (the "*Motion*"). This Motion is supported by the Declaration of Fr. Michael Tyrrell (the "*Tyrrell Declaration*") filed herewith.

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1 **I. Jurisdiction**

2 1. This Court has jurisdiction to consider this matter pursuant to 28 USC
3 §§ 157 and 1334. This is a core proceeding pursuant to 28 USC § 157(b). Venue is
4 proper before this Court pursuant to 28 USC §§ 1408 and 1409.

5 **II. Overview**

6 2. On February 17, 2009 (the "Petition Date"), there were approximately 153
7 tort claims pending against the Debtor which were in various stages of litigation and
8 discovery. The Debtor has been advised by a number of attorneys that they have
9 additional clients with claims that have not been asserted. The Debtor also believes
10 there may be other claims that are beyond the knowledge of anyone currently involved
11 in this Chapter 11 proceeding. Tyrrell Declaration, ¶ 2.

12 3. Because the issue of the Debtor's liability for tort claims dominates this
13 Chapter 11 case, it is critical to define the scope and extent of such liability as the
14 predicate for the formulation and negotiation of a plan of reorganization. For this
15 reason, the Debtor now seeks to begin the process of defining the scope of its liability
16 for such claims. The logical first step in that process is to set a bar date for claims and
17 obtain through a special proof of claim form the information needed to begin to
18 undertake the legal and factual analysis of such potential liability.

19 4. To understand some of the key issues that the Debtor expects to arise in
20 the course of such analysis, the Debtor briefly describes, in Section III of this Motion,
21 the history of its involvement with the prepetition litigation involving the tort claims.

22 5. In Section IV of this Motion, the Debtor requests that the Court set a
23 deadline for all holders of all claims to file such claims against the Debtor, including,
24 without limitation, claims for child abuse and sexual misconduct. This recognizes the

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1 broad definition of "claim" under § 101(5) of the Bankruptcy Code. Additionally, the
2 Debtor requests that the Court establish October 15, 2009 as the claims bar date, a
3 date that is at least 90 days after notice of the bar date is mailed to known claimants
4 and the first nationwide media publication of the notice of such bar date has occurred.
5 The Debtor believes this time frame will allow more than adequate time for potential
6 claimants and their attorneys to be notified of such deadline and then to complete and
7 return their claim forms.

8 6. Section V of this Motion addresses the proposed proof of claim forms that
9 the Debtor is requesting the Court require be used by holders of claims. It discusses
10 the development of the proposed forms by the Debtor, the Official Committee of
11 Unsecured Creditors (the "Committee"), and their professionals and the purpose for
12 requesting claimants to supply various items of information.

13 7. In Sections VI and VII of this Motion, the Debtor discusses the extensive
14 mailing and publication procedures the Debtor proposes to use to provide notice of the
15 claims bar date to actual and potential claimants. As more fully described in
16 Section VII, because the Debtor does not have, and does not have access to, the
17 addresses of the claimants in certain pending litigation matters and concerning yet to be
18 filed claims, the Debtor has developed a process to provide actual notice to the
19 attorneys for such claimants, with safeguards built in to send information about the
20 claims bar date to the claimants if such attorneys request or if they advise the Debtor
21 that they do not, or no longer, represent such claimants. The Debtor has developed a
22 media notice program to provide notice of the claims bar date to unknown, potential
23 claimants.

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8. As more fully discussed in the following sections of this Motion, the Debtor believes that it has developed a fair and reasonable process that will enable it to obtain the information necessary to determine in a rational fashion the real scope of its liability for the tort claims. Indeed, the Debtor has taken appropriate steps to develop a balanced process that recognizes the critical nature of the information requested to permit the orderly administration of the Chapter 11 case and, at the same time, does not impose any undue or unreasonable burden upon the holders of tort claims or their attorneys.

III. History of Prepetition Litigation

9. Since June 2000, the Debtor has been involved in litigation and claims brought by more than 394 persons alleging sexual abuse, said to have occurred primarily between 1950 and 1980, by clergy and others for which the Debtor was claimed to have some responsibility. Since June 2000, total payments made directly by the Debtor to claimants and their attorneys on account of these claims have totaled approximately \$28.4 million, and payments by the Debtor's insurers have totaled more than \$50 million. In late 2007, the Debtor settled 113 claims for damages arising from sexual abuse alleged to have occurred in Alaska, with the Debtor paying \$5 million and its insurers \$45 million to settle those claims. Tyrrell Declaration, ¶ 1.

10. One of the principal reasons for seeking relief under Chapter 11 was to enable the Debtor to use the Chapter 11 process to address in a comprehensive manner, and in one forum, all tort claims asserted against it, determine the extent of the Debtor's liability with respect thereto, and address such claims, and all other claims against the Debtor, in a fair and equitable manner. Tyrrell Declaration, ¶ 3. The Debtor now seeks to begin this process by (i) establishing a deadline for holders of claims to

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1 file proof of such claims against the Debtor, (ii) setting forth the information required to
2 be furnished by such claimants, and (iii) implementing a comprehensive notification
3 program designed to ensure that notice of such deadline reaches the appropriate
4 persons.

5 **IV. The Bar Date**

6 11. On February 17, 2009, the Debtor filed with the Court its Schedules of
7 Assets and Liabilities and Statement of Financial Affairs, (collectively, together with any
8 amendments thereto, the "**Schedules**").

9 12. Rule 3003(c)(3) of the Federal Rules of Bankruptcy Procedure
10 ("**Bankruptcy Rules**") provides that the Court shall fix the time within which proofs of
11 claim must be filed in a Chapter 11 case pursuant to § 501 of the Bankruptcy Code.
12 Moreover, Bankruptcy Rule 3003(c)(2) provides that a creditor whose claim is not
13 scheduled or whose claim is scheduled as disputed, contingent, or unliquidated must
14 file a proof of claim. Except for those claims that were settled prior to the Petition Date,
15 the Debtor has scheduled all known tort claims as disputed, contingent, and
16 unliquidated.

17 13. By this Motion, the Debtor requests, *inter alia*, that the Court establish
18 October 15, 2009, at 5:00 p.m., Prevailing Pacific Time, as the last date and time by
19 which proofs of claim must be filed by the holders thereof (the "**Claims Bar Date**").

20 14. Setting the proposed Claims Bar Date will enable the Debtor to begin to
21 analyze its liability with respect to the claims in an appropriate, timely, and efficient
22 manner. Based upon the procedures set forth below, the proposed Claims Bar Date will
23 give all holders of claims ample opportunity to file proofs of claim, and no one will be
24 prejudiced by the setting of such date.

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1 15. Pursuant to the proposed order annexed hereto as Exhibit 1 (the “**Claims**
2 **Bar Date Order**”), the Debtor requests that each holder of a claim be required to file its
3 claim by delivering in person, by courier service, by overnight delivery (e.g. FedEx), by
4 facsimile, or by first-class mail, a written proof of claim with an original signature which
5 shall be in the form of either the Non-Tort Proof of Claim Form or the Tort Proof of Claim
6 Form (as such terms are defined below) so as to be received on or before the Claims
7 Bar Date by BMC Group, Inc. (the “**Claims Agent**”).

8 16. Pursuant to the proposed Claims Bar Date Order, *only* those persons
9 (a) whose claims have been paid in full, or (b) who qualify as a Future Claimant (as
10 defined below), are not required to file a proof of claim on or before the Claims Bar
11 Date. Any person who settled a claim against the Debtor before the Petition Date, but
12 has not been paid or fully paid on account of such claim, must still file a proof of claim
13 on or before the Claims Bar Date on account of his or her claim.

14 17. The Debtor anticipates that the Court will enter an order in this case
15 appointing a Future Claimants Representative (the “FCR”) as the legal representative
16 for those persons holding claims against the Debtor based on sexual, mental, or
17 physical abuse or misconduct, who meet one or more of the following criteria, and who
18 will neither timely file, nor be deemed to have timely filed (e.g., due to excusable
19 neglect), a proof of claim on or before the Claims Bar Date:

- 20 a. Persons who are under 18 years of age as of the 30th day immediately
21 preceding the Claims Bar Date; and,
22 b. Persons for whom the applicable state law statute of limitations, as it
23 existed on the Petition Date, has not expired as of the 30th day
24 immediately preceding the Claims Bar Date, as determined under

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1 applicable state or federal law, but without regard to federal bankruptcy
2 law.

3 All such persons meeting these criteria are referred to herein as the "Future Claimants".
4 It is further anticipated that the Court will require the FCR to file a proof of claim on
5 behalf of all Future Claimants on or before the Claims Bar Date. Such a filing by the
6 FCR, should not, however, relieve any person (except a minor) who knows they have a
7 claim from the obligation to file his or her own proof of claim by the Claims Bar Date,
8 whether or not the applicable state law statute of limitations regarding such claim has
9 expired.

10 18. It is well settled that a claims bar date is an essential component of the
11 "fresh start" policy underlying Chapter 11 reorganization cases. The establishment of a
12 claims bar date is necessary to provide some degree of finality in a Chapter 11 case,
13 which, in turn, facilitates the administration of the Chapter 11 case for the benefit of the
14 court and all interested parties. See *Mercado-Boneta v. Administration Del Fondo De*
15 *Compensacion Al Paciente*, 125 F3d 9, 17 (1st Cir 1997) ("The purpose behind the
16 claims bar date in bankruptcy ... is to provide the debtor and its creditors with finality
17 and to insure the swift distribution of the liquidated estate."); *In re Manville Forest Prods.*
18 *Corp.*, 89 BR 358, 374 (Bankr SDNY 1988). Moreover, the establishment of a claims
19 bar date is essential in order to understand the nature, scope and magnitude of
20 liabilities that must be addressed in a Chapter 11 plan. See *In re Arrow Air, Inc.*, 75 BR
21 375, 378 (Bankr SD Fla 1987) ("an essential purpose of setting a claims deadline, in this
22 and in other reorganization cases, is to fully inform participants in the reorganization
23 process as to the debtor's liabilities. Armed with this knowledge, proposals may be
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1 evaluated with confidence and negotiations may proceed without being hindered by
 2 undue caution or skepticism caused by ignorance.”).

3 19. The courts have recognized the necessity for a claims bar date in cases
 4 involving clergy sex abuse claims. See *In re Roman Catholic Archbishop of Portland in*
 5 *Oregon*, Case No. 04-37154-elp11 (Bankr D Or 2004); *The Roman Catholic Church of*
 6 *the Diocese of Tucson*, Case No. 4-04-bk-04721-JMM (Bankr D Az 2004); *In re Catholic*
 7 *Bishop of Spokane*, Case No. 04-08822-PCW-11 (Bankr ED Wash 2004); *In re Roman*
 8 *Catholic Diocese of Davenport*, Case No. 06-02229 (Bankr D Ia 2006); *In re The Roman*
 9 *Catholic Bishop of San Diego*, Case No. 07-00939-LA11 (Bankr SD Ca 2007); and *In re*
 10 *Catholic Bishop of Northern Alaska*, Case No.08-00110-DMD (Bankr D Ak 2008).
 11 Consistent with all prior clergy sex abuse Chapter 11 cases, establishment of a claims
 12 bar date in this case will facilitate the administration of this case and allow the parties to
 13 move forward with negotiations toward the formulation of a consensual plan of
 14 reorganization.

15 **V. Proof of Claim Forms**

16 20. The Debtor has prepared proposed non-tort and tort proof of claim forms
 17 that will elicit specific information needed to begin the analysis of the Debtor's potential
 18 liability for the claims, and ultimately to resolve issues in this case that are key to the
 19 reorganization plan process and the Debtor's successful emergence from Chapter 11.
 20 A copy of the proposed non-tort proof of claim form is annexed hereto as Exhibit 2 (the
 21 **“Non-Tort Proof of Claim Form”**). A copy of the proposed Tort Proof of Claim Form is
 22 annexed hereto as Exhibit 3 (the **“Tort Proof of Claim Form”**).

23 22. The Non-Tort Proof of Claim form is the Official Proof of Claim Form 10
 24 that is generally used in all Chapter 11 cases. Accordingly, the Debtor respectfully

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1 requests that the Court approve the Non-Tort Proof of Claim form for the filing of all non-
2 tort claims.

3 23. The Tort Proof of Claim form is patterned after the tort proof of claim form
4 approved in the *Catholic Bishop of Northern Alaska* Chapter 11 case and is designed to
5 solicit key information necessary to appropriately address certain critical issues
6 pertinent to a determination of the Debtor's liability on account of the tort claims. The
7 Tort Proof of Claim Form requests the following types of basic information: (i) identifying
8 information to enable the Debtor and others to locate the claimant,¹ (ii) information
9 about the persons involved, the timing, and the nature of the activities for which the
10 claimant is asserting a claim, (iii) information about the claimant's alleged injuries and
11 when the claimant first realized that he or she had sustained an injury, (iv) information
12 about the extent of the alleged damages sustained, or losses or injuries suffered, by the
13 claimant, and (v) information about professionals and others the claimant consulted with
14 about the alleged injury and the claim.

15 24. The Debtor requests that the Court approve the proposed Non-Tort Proof
16 of Claim Form and Tort Proof of Claim Form and direct that they be utilized in
17 connection with the filing of claims. The Debtor further requests that the Court order as
18 follows:

- 19 • The failure of any holder of a tort claim to use the Tort Proof of Claim Form
20 shall result in the claim of such claimant being deemed invalid as improperly
21 filed and of no force and effect, pursuant to Bankruptcy Rule 3003(c), subject
22 to the opportunity for the claimant to cure the defect as provided below.
- 23 • If any claim that is filed on or before the Claims Bar Date is deemed invalid as
24 improperly filed because it was not filed on the Tort Proof of Claim Form, the

25 ¹ NOTE: Special procedures will be adopted to preserve the confidentiality of the
26 claimant's identity.

Debtor will provide the holder of such claim with written notice that the Debtor will seek an order from the Court disallowing such claim, unless within 30 days of the date of such notice, the claimant files re-files such claim on the approved Tort Proof of Claim Form. Prior to entry of any order disallowing the claim, the Debtor will provide the claimant with 20 days' notice and an opportunity to object to its motion seeking to have the claim disallowed.

- If any claim is filed on the Tort Proof of Claim Form but fails to provide the information requested therein, the Debtor will provide the holder of such claim with written notice that the Debtor will seek an order from the Court disallowing such claim, unless within 30 days of the date of such notice, the claimant files re-files such claim to include the requested information. Prior to entry of any order disallowing the claim, the Debtor will provide the claimant with 20 days' notice and an opportunity to object to its motion seeking to have the claim disallowed.

25. The Debtor respectfully submits that use of the Tort Proof of Claim Form is necessary and appropriate in this case. It is well recognized that proof of claim forms that deviate from Official Proof of Claim Form 10 may be used when special circumstances exist. See *In re I.G. Services Ltd.*, 244 BR 377, 384 (Bankr WD Tex 2000) (citing *In re A.H. Robins*, 862 F2d 1092 (4th Cir 1988)). While Bankruptcy Rule 3001(a) provides that "[a] proof of claim shall conform substantially to the appropriate Official Form," Bankruptcy Rule 9009 authorizes appropriate and necessary alterations in the Official Forms:

The Official Forms prescribed by the Judicial Conference of the United States shall be observed and used *with alterations as may be appropriate. Forms may be combined and their contents rearranged to permit economies in their use.* The Director of the Administrative Office of the United States Courts may issue additional forms for use under the Code. The forms shall be construed to be consistent with these rules and the Code.

(Emphasis added).

26. Special circumstances clearly exist here – the information being requested is critical to any reasonable evaluation and analysis of the Debtor's liability, and this

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1 issue is the lynchpin of the Debtor's Chapter 11 case. The proposed form provides an
 2 efficient means to obtain some of the basic information that any claimant should provide
 3 in order to justify a claim and participate in this case. Indeed, the Debtor would expect
 4 that the requested information would be readily available because it is within the
 5 knowledge of the claimant.

6 27. Moreover, in each of the Catholic diocese Chapter 11 cases referred to in
 7 paragraph 19 above, the courts have recognized that substantial alteration to Official
 8 Proof of Claim Form 10 is necessary when dealing with tort claims alleging sex abuse.
 9 Other courts dealing with tort claims have reached the same conclusion. In *In re LTV*
 10 *Steel Company Inc.*, Case No. 86-B-11273 (BRL) (Bankr SDNY), the court approved
 11 the use of a detailed questionnaire, characterizing the inquiries as seeking "appropriate
 12 information so that [the claims] meet the minimum requirements of sections 501 and
 13 502 of the Bankruptcy Code and Article 3 of the Bankruptcy Rules." *LTV*, Case No. 86-
 14 B-11273 (Bankr SDNY May 2, 1989). In *In re A.H. Robins*, 862 F2d 1092 (4th Cir
 15 1988), the Fourth Circuit held that a detailed questionnaire requesting information
 16 relating to the claimant's I.U.D. claims was an indispensable part of the claims process,
 17 and not simply part of the discovery process. *A.H. Robins*, 862 F2d 1096. Accordingly,
 18 the Debtor respectfully requests that the Court approve the Tort Proof of Claim Form for
 19 the filing of tort claims.

20 VI. Notice Procedures

21 29. Pursuant to the proposed Claims Bar Date Order and Bankruptcy Rule
 22 2002(a)(7), the Debtor proposes to use a two-fold widespread notice program that will
 23 provide actual notice of the Claims Bar Date to all known creditors and the attorneys for
 24 all known creditors, and publication notice to creditors whose identities and/or

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addresses are not presently known or reasonably ascertainable by the Debtor, as explained more fully below.

A. Actual Notice of the Claims Bar Date Order.

i. With respect to many of the claims pending as of the Petition Date, the Debtor has the names and addresses of the attorneys for the claimants but does not have the names and addresses of the individual claimants.

ii. Accordingly, for purposes of providing actual notice to all known creditors, including, without limitation, persons or entities that have commenced judicial, administrative, or other actions or proceedings (including settlement proceedings), or otherwise initiated an action against the Debtor asserting a claim that has not been settled or has been settled but not paid or fully paid, the Debtor proposes to mail to all known creditors and to the attorneys for represented creditors at their last known address (i) the Claims Bar Date Order, (ii) the notices of the Claims Bar Date substantially in the forms attached hereto as Exhibit 4 (the “**Non-Tort Claims Bar Date Notice**”) and Exhibit 5 (English and Spanish versions) (the “**Tort Claims Bar Date Notice**”), collectively the “**Claims Bar Date Notices**”, and (iii) a copy of both the Non-Tort Proof of Claim Form and the Tort Proof of Claim Form (English and Spanish versions).

iii. The proposed Claims Bar Date Notices inform potential claimants of the Claims Bar Date and contain detailed information regarding who must file a proof of claim, the procedures for filing a proof of claim and the consequences of failing to timely file a proof of claim. The Debtor respectfully requests that the Court approve the form and use of the Claims Bar Date Notices in substantially the forms annexed hereto as Exhibits 4 and 5.

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1 **VII. Publication Notice**

2 30. The Debtor has determined that it would be in the best interest of its
 3 estate also to give notice by publication to (a) those creditors who are unknown or not
 4 reasonably ascertainable by the Debtor, (b) those creditors who may be known to the
 5 Debtor but whose addresses are unknown to the Debtor, and (c) anyone else who may
 6 be a creditor of the Debtor. The Debtor has developed a special “plain English” notice
 7 that the Debtor proposes to use in a comprehensive, broad-based media notice
 8 program. Pursuant to Bankruptcy Rule 2002(1), the Debtor requests authority to use
 9 such notice which is substantially in the form attached as Exhibit A to the Media Notice
 10 Program described below (the “**Claims Publication Notice**”) (English and Spanish
 11 versions).

12 31. The Debtor has developed a broad-based direct media notice program
 13 designed to provide notice to potential claimants in areas where claims have arisen or
 14 where potential claimants may now be located. The proposed media notice program
 15 that the Debtor proposes to use is described in Exhibit 6 (the “**Media Notice Program**”).
 16 The Media Notice Program is designed to ensure comprehensive notice to individuals
 17 who could potentially hold claims against the Debtor. The Media Notice Program
 18 provides for the dissemination of the Claims Publication Notice by using (i) newspapers,
 19 (ii) diocesan publications, (iii) church bulletins, (iv) tribal publications, (v) the Debtor’s
 20 website, (vi) the Claim’s Agent’s website, (vii) press releases, (viii) public radio
 21 announcements, (ix) postings at Jesuit associated schools and universities, and
 22 (x) postings at post offices and general merchandise stores in certain Native American
 23 and tribal areas. The primary target of the Media Notice Program will be persons who
 24 attended Catholic churches, schools, and universities in Alaska, Idaho, Montana,

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1 Oregon, and Washington where Jesuits worked, these being the locations within the
 2 Oregon Province Territory where the alleged acts giving rise to the tort claims are most
 3 likely to have occurred.

4 32. The Debtor also intends to provide notice in locations outside the Oregon
 5 Province Territory where Oregon Province Jesuits, against whom allegations of child
 6 sex abuse have been made, were working or studying. The Debtor has reviewed its
 7 internal catalogues to determine where those Jesuits were located between 1950 and
 8 the present. These locations have all been targeted for notice in a local newspaper of
 9 general circulation. Finally, the Debtor intends to accomplish nationwide notice of the
 10 Claims Bar Date by publication in USA Today, and by the media's nationwide
 11 dissemination of one or more press releases to be issued by the Debtor. Tyrrell
 12 Declaration, ¶ 4.

13 33. Of the more than 394 claims asserted against the Debtor since June 2000,
 14 approximately 99% of the claimants lived or resided in the five states encompassing the
 15 Oregon Province Territory. The Debtor believes that any presently unknown potential
 16 claimants are more likely than not to reside in these same states. Of the remaining 1%,
 17 the claimants lived in California, New York, and Virginia. Tyrrell Declaration, ¶ 5.
 18 Furthermore, the nationwide notice process and general publicity about the case will
 19 provide notice of the Claims Bar Date to potential claimants living both inside and
 20 outside of the target area described in paragraphs 30 – 32 herein. Thus, the Debtor
 21 believes the Media Notice Program should have substantial success in notifying
 22 potential claimants of the Claims Bar Date.

23 34. It should be noted that the Claims Publication Notice to be published in
 24 connection with the Media Notice Program includes a toll-free telephone number that

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1 potential claimants may call to obtain more information, including a copy of a Tort Proof
 2 of Claim Form, notice of the Claims Bar Date, and information concerning the
 3 procedures for filing a proof of claim. The notice also contains BMC Group, Inc.'s
 4 website address specific to this case — from which a claimant can review information
 5 about this case and can download a copy of the Tort Proof of Claim Form and the Tort
 6 Claims Bar Date Notice.

7 35. The Debtor estimates the total cost of the Media Notice Program to be
 8 approximately \$577,053.

9 **VIII. Additional Media Notice**

10 36. The Court should take notice that the proposed Media Notice Program will
 11 be augmented by an independent media campaign that is already underway. Many of
 12 the existing tort claimants' attorneys are already working hard to alert potential
 13 claimants that they must act promptly to preserve their rights to make a claim in this
 14 case. The following websites and publications provide three recent examples of these
 15 efforts:

16 a. **www.priestabuselaw.com** (see Exhibit 7 attached) – this website
 17 appears to target Native Americans by listing the present and former schools/missions
 18 at which the Oregon Province Jesuits worked to serve the native populations of the
 19 Pacific Northwest, correctly noting that the accusations of abuse date primarily from the
 20 1950's, 1960's, and 1970's. To draw the interest of Native American claimants, the
 21 website features a photograph and short biography of 'Ken Bear Chief,' who is
 22 described as a paralegal and his tribal affiliations are listed. His photograph pictures
 23 him in western-style clothing. This website, which bears a copyright for "Tamaki Law,"
 24

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1 informs the reader that: "Because time is running out for legal action, please contact us
2 immediately."

3 b. www.jesuitabuse.com (see Exhibit 8 attached) – this website
4 begins with a large headline proclaiming: "Bankruptcy Court sets deadline for victims to
5 file claims for compensation." This website is under the copyright of "Northwest
6 Attorneys for Justice" and lists attorneys Michael Pfau and Timothy Kosnoff of Seattle,
7 John Allison of Spokane, Leander James of Coeur d'Alene, Idaho, and Andrew Chason
8 and Timothy Walton of Boise, under the "Contact Us" heading. It indicates that these
9 lawyers "have handled hundreds of sex-abuse and physical abuse cases" and "have
10 extensive experience with tribal members and non-Natives" and "are skilled in helping
11 victims of Priest abuse seek justice and healing." This website goes so far as to provide
12 the names of persons who have previously been accused and lists those places where
13 Oregon Province Jesuits have served in the past.

14 c. **May 11, 2009 Advertisement in Confederated Umatilla Journal** (see
15 Exhibit 9 attached) – This ad under the heading "Victims of Priest Abuse" is another
16 effort of Tamaki Law to notify holders of claims against the Debtor of the impending
17 claims bar date and the need to file their claims.

18 d. **April 2009 Advertisement in Confederated Umatilla Journal** (see
19 Exhibit 10 attached) – This ad published by the "Northwest Attorneys for Justice" under
20 the heading "Victims of Jesuit Priest Abuse Have Limited Time to Make Claims"
21 provides notice of the bankruptcy filing and invites holders of claims to contact the
22 attorneys listed in the ad.

23 37. If the Court goes on-line to review the above-described websites, it will
24 find that they are professionally prepared, have emotional impact, and are visually

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1 appealing. While the Debtor takes issue with many of the facts asserted, the point to be
 2 made is that widespread media notice is already ongoing on a large scale. It is
 3 extremely likely, if not certain, that other activities in addition to those noted are
 4 currently underway to solicit additional claimants. The power of what economist Adam
 5 Smith called the “unseen hand” that drives markets to efficient outcomes, is at work to
 6 assist the Debtor in its task to provide notice of the Claims Bar Date to all persons
 7 holding claims against it. In many ways, the notice that this Court approves will be
 8 “frosting on the cake.” The effective (whether accurate or not) communications devices
 9 so far employed by the plaintiffs’ attorneys are ample evidence of that.

10 38. These ongoing activities do not replace the function of the official claims
 11 bar date notice. They do, however, provide evidence that notice is already being
 12 spread throughout the Pacific Northwest by persons with a direct financial interest in
 13 locating additional clients. Word that a claims bar date is approaching is already
 14 percolating and it can only be presumed that these same attorneys will follow-up with
 15 additional public notices once a claims bar date is actually established. These
 16 attorneys’ efforts should provide the Court with additional assurance that potential
 17 claimants are likely to receive notice of the Claims Bar Date and should help to
 18 ameliorate any concern that the the Debtor’s proposed Media Notice Program might be
 19 inadequate.

20 **IX. The Proposed Bar Date is Reasonable**

21 39. The Debtor will be responsible for mailing the Claims Bar Date Notices,
 22 the Claims Bar Date Order, and the Non-Tort and Tort Proof of Claim Forms described
 23 above. The Debtor expects that it will be able to complete the mailing of the Proof of
 24 Claim Forms, the Claims Bar Date Order, and the Claims Bar Date Notices to known

25 **Page 17 of 19 - DEBTOR’S MOTION FOR AN ORDER (1) SETTING A CLAIMS**
 26 **BAR DATE FOR FILING PROOFS OF CLAIM, AND (2) APPROVING PROOF OF**
CLAIM FORMS, BAR DATE NOTICES, ACTUAL NOTICE PROCEDURE, AND
MEDIA NOTICE PROGRAM

creditors within 20 days after the Court enters the proposed Claims Bar Date Order. By establishing October 15, 2009 as the Claims Bar Date, all known holders of claims will have approximately four months' notice of the Claims Bar Date for filing proofs of claim. The Debtor intends to begin publication notices no later than June 30, 2009, which will be at least 115 days before an October 15th Claims Bar Date, with the last publication notices to occur on or before September 15, 2009, which would be at least 30 days prior to the Claims Bar Date. Accordingly, this will give unknown creditors an adequate period of time within which to file claims, particularly in view of the fact that Bankruptcy Rule 2002(a)(7) requires only twenty (20) days' notice.

X. The Proposed Notice Procedures Are Reasonable And Adequate

40. Principles of due process require "that a debtor give notice that is reasonably calculated under the circumstances to apprise an interested party of the pendency of the bankruptcy case." *In re Envirodyne Industries, Inc.*, 206 BR 468, 472 (Bankr ND Ill 1997), *aff'd*, 214 BR 338 (ND Ill 1997) (citing *Mullane v. Central Hanover Bank & Trust Co.*, 339 US 306 (1950)). As set forth above, the Debtor has proposed an extensive, widespread, and multi-dimensional program to provide all holders of claims with adequate notice of the Claims Bar Date and their obligation to file claims. Further, the notice procedures the Debtor has proposed provide more than adequate time for all such claimants to comply with the obligation to file an appropriate proof of claim. Accordingly, the Debtor submits that the notice and procedures it proposes are more than sufficient under the circumstances and fully comply with due process, and asks the Court to enter findings consistent therewith.

WHEREFORE the Debtor respectfully requests entry of an order in the form attached hereto as Exhibit 1, *inter alia*: (i) setting October 15, 2009, at 5:00 p.m.,

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1 Prevailing Pacific Time, as the Claims Bar Date, (ii) approving the proposed Non-Tort
2 Proof of Claim Form, Tort Proof of Claim Form, the Claims Bar Date Notices, and the
3 Claims Publication Notice, (iii) approving the procedures for providing actual notice to all
4 known creditors, (iv) approving the proposed Media Notice Program, (v) finding that the
5 proposed notice program and procedures are adequate and sufficient under the
6 circumstances and satisfy due process, and (vi) granting the Debtor such other and
7 further relief as is just.

8 Dated this 13th day of May, 2009.

9 SUSSMAN SHANK LLP

10 */s/ Thomas W. Stilley*

11 _____
12 Thomas W. Stilley, OSB No. 88316
13 Howard M. Levine, OSB No. 80073
Susan S. Ford, OSB No. 84220
Attorneys for Debtor and Debtor-In-Possession

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BAR DATE FOR FILING PROOFS OF CLAIM, AND (2) APPROVING PROOF OF
CLAIM FORMS, BAR DATE NOTICES, ACTUAL NOTICE PROCEDURE, AND
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